

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT(S) : Tatsuya NAGAOKA, et al.  
SERIAL NO. : 10/505,229  
FILING DATE : August 20, 2004  
TITLE : NOVEL PROMOTER  
ART UNIT : Unassigned  
EXAMINER : Unassigned  
DOCKET NO. : 12218/38

**MAIL STOP MISSING PARTS**  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

**RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE**

SIR:

In response to the Notification of Defective Response mailed April 27, 2006 in the above-identified application, submitted herewith are a computer readable copy of a Substitute Sequence Listing, a paper copy of the same, a Statement to Support Filing and Submission of the Substitute Sequence Listing, and a copy of the Notification.


In addition to corrections of the errors indicated in the Notification, the Substitute Sequence Listing corrects a typographical error in the priority date, by replacing the incorrect date of April 18, 2002, with the correct date of April 8, 2002, in the required format. The April 8, 2002 priority date is set forth on the face of the corresponding international application PCT/JP03/04426, for example. Accordingly, there are no issues of new matter.

Applicants hereby request entry of the Substitute Sequence Listing into the application.

The Office is authorized to charge any fees or credit any overpayment associated with this filing to Deposit Account No. 11-0600.

Respectfully submitted,  
KENYON & KENYON LLP

Date May 18, 2006

  
Cassandra T. Swain, Ph.D.  
Reg. No. 48,361

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Tel: (202) 220-4200  
Fax: (202) 220-4201



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT(S) : Tetsuya NAGAOKA, et al.  
SERIAL NO. : 10/505,229  
FILING DATE : August 20, 2004  
TITLE : NOVEL PROMOTER  
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DOCKET NO. : 12218/38

Commissioner of Patents  
Box 1450  
Alexandria, VA 22313-1450  
**Mail Stop SEQUENCE**

**STATEMENT TO SUPPORT FILING AND SUBMISSION IN  
ACCORDANCE WITH 37 C.F.R. §§ 1.821-1.825**

Sir:

In connection with a paper copy of a Substitute Sequence Listing and a computer readable copy of the Substitute Sequence Listing submitted herewith, Applicants hereby state that:

1. the paper copy and the computer readable copy, filed in accordance with 37 C.F.R. §1.821(g), do not include new matter;
2. the content of the paper copy and the content of the computer readable copy of the Substitute Sequence Listing, submitted in accordance with 37 C.F.R. § 1.821(c) and (e), respectively, are the same; and

3. all statements made therein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent resulting therefrom.

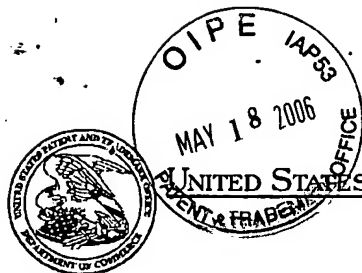
Respectfully submitted,

KENYON & KENYON LLP

May 18, 2006  
Date

Cassandra T. Swain  
Cassandra T. Swain, Ph.D.  
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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P415916 USW

| U.S. APPLICATION NUMBER NO. | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
|-----------------------------|-----------------------|------------------|
| 10/505,229                  | Tetsuya NAGAOKA       | 12218/38         |

| INTERNATIONAL APPLICATION NO. |
|-------------------------------|
|-------------------------------|

PCT/JP03/04426

| I.A. FILING DATE | PRIORITY DATE |
|------------------|---------------|
| 04/08/2003       | 04/08/2002    |

John C Altmiller  
 Kenyon & Kenyon  
 1500 K Street NW  
 Suite 700  
 Washington, DC 20005

CONFIRMATION NO. 1903

371 FORMALITIES LETTER



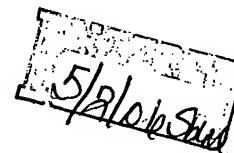
\*OC000000018586785\*

Date Mailed: 04/27/2006

## NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495)

- Priority Document
- Copy of the International Application filed on 08/20/2004
- English Translation of the IA filed on 08/20/2004
- Copy of the International Search Report filed on 08/20/2004
- Preliminary Amendments filed on 08/20/2004
- Information Disclosure Statements filed on 11/04/2004
- Biochemical Sequence Diskette filed on 04/20/2005
- Oath or Declaration filed on 04/20/2005
- Biochemical Sequence Listing filed on 08/20/2004
- Request for Immediate Examination filed on 08/20/2004
- U.S. Basic National Fees filed on 08/20/2004
- Assignment filed on 04/20/2005
- Priority Documents filed on 08/20/2004



Applicant's response filed 04/20/2005 is hereby acknowledged. The following requirements set forth in the NOTIFICATION of MISSING REQUIREMENTS mailed 03/29/2005 have not been completed.

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 CFR 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended under

37 CFR 1.136(a).

For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:

- For Rules Interpretation, call (571) 272-0951
- For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.
- Send e-mail correspondence for Patentin Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

FRANCINE YOUNG

Telephone: (703) 308-9140 EXT 215

PART 1 - ATTORNEY/APPLICANT COPY

| U.S. APPLICATION NUMBER NO. | INTERNATIONAL APPLICATION NO. | ATTY. DOCKET NO. |
|-----------------------------|-------------------------------|------------------|
| 10/505,229                  | PCT/JP03/04426                | 12218/38         |

FORM PCT/DO/EO/916 (371 Formalities Notice)

## **STIC Biotechnology Systems Branch**

### **RAW SEQUENCE LISTING** **ERROR REPORT**

The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) detected errors when processing the following computer readable form:

Application Serial Number: 10/505,229 A  
Source: pc/10  
Date Processed by STIC: 11/18/05

THE ATTACHED PRINTOUT EXPLAINS DETECTED ERRORS.

PLEASE FORWARD THIS INFORMATION TO THE APPLICANT BY EITHER:

- 1) INCLUDING A COPY OF THIS PRINTOUT IN YOUR NEXT COMMUNICATION TO THE APPLICANT, WITH A NOTICE TO COMPLY or,
- 2) TELEPHONING APPLICANT AND FAXING A COPY OF THIS PRINTOUT, WITH A NOTICE TO COMPLY

FOR CRF SUBMISSION AND PATENTIN SOFTWARE QUESTIONS, PLEASE CONTACT MARK SPENCER, TELEPHONE: 571-272-2510; FAX: 571-273-0221

TO REDUCE ERRORED SEQUENCE LISTINGS, PLEASE USE THE **CHECKER - VERSION 4.2.2 PROGRAM**, ACCESSIBLE THROUGH THE U.S. PATENT AND TRADEMARK OFFICE WEBSITE. SEE BELOW FOR ADDRESS:

<http://www.uspto.gov/web/offices/pac/checker/chkrnote.htm>

Applicants submitting genetic sequence information electronically on diskette or CD-Rom should be aware that there is a possibility that the disk/CD-Rom may have been affected by treatment given to all incoming mail.

Please consider using alternate methods of submission for the disk/CD-Rom or replacement disk/CD-Rom.

Any reply including a sequence listing in electronic form should NOT be sent to the 20231 zip code address for the United States Patent and Trademark Office, and instead should be sent via the following to the indicated addresses:

1. EFS-Bio (<<http://www.uspto.gov/ebc/efs/downloads/documents.htm>> , EFS Submission User Manual - ePAVE)
2. U.S. Postal Service: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
3. Hand Carry, Federal Express, United Parcel Service, or other delivery service (EFFECTIVE 01/14/05):  
U.S. Patent and Trademark Office, Mail Stop Sequence, Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314

Revised 01/24/05



PCT

## RAW SEQUENCE LISTING

DATE: 11/25/2005

PATENT APPLICATION: US/10/505,229A

TIME: 12:05:42

Input Set : N:\Crf4\Refhold\10\_folder\J505229.raw

Output Set: N:\CRF4\11252005\J505229A.raw

1 <110> APPLICANT: KANEKA CORPORATION  
 2 <120> TITLE OF INVENTION: A new promoter  
 3 <130> FILE REFERENCE: T747.SBP-7  
 4 <140> CURRENT APPLICATION NUMBER: US/10/505,229A  
 5 <141> CURRENT FILING DATE: 2004-08-20  
 6 <150> PRIOR APPLICATION NUMBER: JP 2002-105240  
 W--> 7 <151> PRIOR FILING DATE: 2002-4-18  
 8 <160> NUMBER OF SEQ ID NOS: 27

Does Not Comply  
 Corrupted Diskette Needed

2002-04-18 ← use this format for  
 dates

## ERRORED SEQUENCES

377 <210> SEQ ID NO: 19  
 378 <211> LENGTH: 45  
 379 <212> TYPE: DNA  
 380 <213> ORGANISM: Artificial Sequence  
 381 <220> FEATURE:  
 382 <223> OTHER INFORMATION: PCR Primer for ALK1t 3'  
 383 <400> SEQUENCE: 19  
 E--> 384 tttttgatatc gagctcgctc acatgcatct ttggagattg atctt

Group of !!

46  
 45

RAW SEQUENCE LISTING ERROR SUMMARY      DATE: 11/25/2005  
PATENT APPLICATION: US/10/505,229A      TIME: 12:05:43

Input Set : N:\Crf4\Refhold\10\_folder\J505229.raw  
Output Set: N:\CRF4\11252005\J505229A.raw

Invalid Line Length:

The rules require that a line not exceed 72 characters in length. This includes spaces.

Seq#:2; Line(s) 26

Seq#:4; Line(s) 44

Seq#:13; Line(s) 311



**VERIFICATION SUMMARY**

DATE: 11/25/2005

PATENT APPLICATION: US/10/505,229A

TIME: 12:05:43

Input Set : N:\Crf4\Refhold\10\_folder\J505229.raw

Output Set: N:\CRF4\11252005\J505229A.raw

L:7 M:256 W: Invalid Numeric Header Field, Wrong Prior FILING DATE:YYYY-MM-DD

L:384 M:254 E: No. of Bases conflict, LENGTH:Input:45 Counted:46 SEQ:19

L:384 M:252 E: No. of Seq. differs, <211> LENGTH:Input:45 Found:46 SEQ:19